

201405807

Philip Depasquale

At about 12:45 a.m. on June 8, 2014, a man was arrested near Bryant Park for possession of marijuana. After he was brought to the precinct, he was escorted by PO Philip Depasquale into the prisoner pen. The man suffered a laceration above his right eye that required six stitches. PO Depasquale stated that the man had lunged towards the three stairs leading to the prisoner area, while the man and a number of independent witnesses stated that PO Pasquale hit the man's head against the bars of the cell before placing him inside.

Based on the substantial corroborative evidence regarding how the man sustained his injury, and the lack of corroborative evidence for PO Depasquale's account, the CCRB found that PO Depasquale used excessive force and made a false statement to the CCRB.

The NYPD issued PO Depasquale a Command Discipline as punishment for the incident.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ramsey AlQaisi	Team: Squad #15	CCRB Case #: 201405807	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sun, 06/08/2014 12:46 AM	Location of Incident: [REDACTED]	Precinct: 14	18 Mo. SOL 12/08/2015	EO SOL 12/8/2015	
Date/Time CV Reported Sun, 06/08/2014 1:32 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/12/2014 2:40 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Philip Depasquale	27704	§ 87(2)(b)	MTS PCT
2. DTS Christopher Williams	07918	§ 87(2)(b)	ESS 01
3. DTS Keith Connelly	00725	§ 87(2)(b)	ESS 01
4. An officer			ESS 01

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ryan Baker	11982	§ 87(2)(b)	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Philip Depasquale	Force: PO Philip Depasquale used physical force against § 87(2)(b).	A . § 87(2)(g)
B . An officer	Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.	B . § 87(2)(g)
C . DTS Christopher Williams	Force: Det. Christopher Williams restricted the breathing of § 87(2)(b).	C . § 87(2)(g)
D . DTS Keith Connelly	Force: Det. Keith Connelly restricted the breathing of § 87(2)(b).	D . § 87(2)(g)
E . POM Philip Depasquale	Other: PO Philip Depasquale intentionally provided a false official statement to the CCRB.	E . § 87(2)(g)

Case Summary

On June 8, 2014, at approximately 12:46 a.m., § 87(2)(b) was arrested by PO Lawrence Tisdall in front of 1033 Avenue of the Americas in Manhattan and transported to the § 87(2)(b) by PO Philip Depasquale and PO Ryan Baker. § 87(2)(b) was charged with § 87(2)(b), § 87(2)(a) CPL 160.50

At approximately 12:55 a.m., PO Depasquale and PO Baker brought § 87(2)(b) inside of the stationhouse and led him towards the holding cells area. § 87(2)(b) alleged that PO Depasquale pushed his head forward which caused him to fall into the bars of a cell, after which PO Depasquale dragged § 87(2)(b) into a cell (**Allegation A**). At approximately 1:07 a.m., Det. Christopher Williams and Det. Keith Connelly of the Emergency Services Unit (ESU) responded to the stationhouse on a report of an emotionally disturbed person. § 87(2)(b) alleged that one of the two ESU officers told him that if he did not comply with his orders, that he would be tased (**Allegation B**). § 87(2)(b) alleged that he was placed inside of a restraint bag face-down on the floor in the holding cells area and Det. Williams and Det. Connelly stood on top of his buttocks and shoulder blades which caused him to not be able to breathe (**Allegations C and D**). § 87(2)(b) was then removed from the stationhouse and transported to § 87(2)(b) for evaluation. At the hospital, § 87(2)(b) received six stitches to a laceration above his right eye.

This case was originally assigned to Investigator Jessica Kulig. Upon her resignation from the agency, this case was re-assigned to the undersigned investigator on January 5, 2015.

Mediation, Notice of Claim, and Criminal Histories

- This case was not eligible for mediation due to § 87(2)(b)'s injury and the criminal charges related to his arrest.
- § 87(2)(b) has not filed a Notice of Claim with the City of New York regarding this incident as of May 12, 2015, which is beyond the ninety day filing period (encl. 29).
- As of May 27, 2015, § 87(2)(b)'s arrest related to the incident was sealed. § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2k).
- PO Depasquale has been a member of the service for sixteen years and this is his first CCRB complaint (encl. 2h).
- Det. Williams has been a member of the service for twenty years and has two prior CCRB allegations stemming from two cases, none of which were substantiated against him (encl. 2i). § 87(2)(g)

- Det. Connelly has been a member of the service for seventeen years and has four prior CCRB allegations stemming from two cases, none of which were substantiated against him. (encl. 2j). § 87(2)(g)

Civilian Statements

Complainant/Victim

§ 87(2)(b) (encl. 4a-4f)

- § 87(2)(b) was interviewed at the § 87(2)(b) in Rikers Island on August 21, 2014.
- According to § 87(2)(b) following his arrest by PO Tisdall, he was transported to the § 87(2)(b) by three officers, two of which were identified by the investigation as PO Depasquale and PO Baker.
- § 87(2)(b) was pushed from behind as he walked inside of the stationhouse and continued towards the holding cells. § 87(2)(b) could not tell who was pushing him because both officers were behind him.
- § 87(2)(b) was brought into a small room at the back of the stationhouse with a printing machine. There is also a set of approximately five stairs, which are right in front of the printing machine. At the top of the stairs is the room where the cells are located. The cells are on the right side of the room. There is a gate leading to the holding cells with vertical and horizontal iron bars. The officers dragged him up the stairs and told him to walk. § 87(2)(b) never tried to prevent himself from walking or resist in any way.
- When § 87(2)(b) reached the top of the stairs in the holding cells area, he felt a hand push him forward from the back of his head. § 87(2)(b) was still handcuffed. As a result of the push, the right side of § 87(2)(b)'s head smashed against the iron bars on the gate to the cell, causing his right eyebrow to split open and begin bleeding. § 87(2)(b) then fell to the floor. He landed face-down, hitting his lip and chin on the floor. Then, § 87(2)(b) was dragged into a cell.
- Approximately 20 or 25 minutes later, a sergeant came in and spoke to § 87(2)(b) briefly. § 87(2)(b) told the sergeant that he wanted medical attention for his injuries. The sergeant asked § 87(2)(b) if he was going to cooperate when EMS comes. § 87(2)(b) did not indicate how he responded. The sergeant then left.
- Approximately twenty minutes later, two EMTs, identified by the investigation as § 87(2)(b) and EMT § 87(2)(b) and three officers from ESU arrived to the stationhouse.
- The ESU officers asked § 87(2)(b) several times if he was going to come out and comply with EMT § 87(2)(b) and EMT § 87(2)(b). An unidentified ESU officer told § 87(2)(b) that if he did not comply with his orders, he would be tased.
- § 87(2)(b) was placed inside of a restraint bag. The officers tightened the bag which restricted his breathing. § 87(2)(b) told the officers he could not breathe. One of them then stood on his buttocks and another on one of his shoulder blades. The officers put straps around him and tightened them more. They also put a hood over his head.

Witnesses

EMT § 87(2)(b) & § 87(2)(b) (encl. 5a-5f, 6a-6f)

- § 87(2)(b) and EMT § 87(2)(b) were interviewed at the CCRB on February 5, 2015.

- The EMTs who transported § 87(2)(b) to § 87(2)(b), EMT § 87(2)(b) and EMT § 87(2)(b) both stated that they did not hear § 87(2)(b) complain about not being able to breathe or say that he thought he was going to die.
- EMT § 87(2)(b) and EMT § 87(2)(b) stated that they did not go to the cells area and did not see § 87(2)(b) until he was brought to the lobby and already in the restraint bag.
- Both stated that they heard § 87(2)(b) speaking in full sentences which he would not have been able to do had his breathing been restricted.
- § 87(2)(b) did not display any signs indicating that he was experiencing any issues with breathing.
- Both EMT § 87(2)(b) and EMT § 87(2)(b) described § 87(2)(b) as physically and verbally combative while in the restraint bag. § 87(2)(b) continued to curse, spit, scream, and kick while in the bag.
- EMT § 87(2)(b) and EMT § 87(2)(b) never saw any officer hold a taser or point a taser at § 87(2)(b). EMT § 87(2)(b) and EMT § 87(2)(b) did not hear any officer threaten to tase § 87(2)(b) if he did not comply. EMT § 87(2)(b) and EMT § 87(2)(b) did not see any officer step or stand on § 87(2)(b) while attempting to place him in the restraint bag.

§ 87(2)(b) (encl. 7a-7f) (IAB and CCRB Statements)

- § 87(2)(b) was interviewed at the Manhattan Central Booking by Sgt. Darren Dauteuil and Det. Rodney Howard from IAB on June 8, 2014. § 87(2)(b) was interviewed at Manhattan Detention Center by the undersigned investigator on March 26, 2015. § 87(2)(b)
- § 87(2)(b) was a prisoner in one of the holding cells inside of the 14th Precinct at approximately 12:46 a.m.
- § 87(2)(b) did not know § 87(2)(b) before this incident.
- § 87(2)(b) came into the cell area with four officers, two of which were identified by the investigation according to § 87(2)(b)'s physical descriptions, to be PO Depasquale and PO Baker.
- § 87(2)(b) heard verbal conversation between the officers and § 87(2)(b). § 87(2)(b) told officers that they had no right to arrest him and that it was unnecessary to arrest him for having a bag of marijuana. As § 87(2)(b) was saying this, he was turning his body to look back at the officers. PO Depasquale told § 87(2)(b) to shut the fuck up approximately five times.
- PO Depasquale grabbed § 87(2)(b) by the middle of his back and his left forearm and pushed him into a cell's bars. § 87(2)(b) heard § 87(2)(b) hit the door of the cell. § 87(2)(b) could not see the actual contact between § 87(2)(b) and the cell. After hitting the cell, § 87(2)(b) stumbled backwards.
- § 87(2)(b) saw blood gushing from the right side of § 87(2)(b)'s face. PO Depasquale threw § 87(2)(b) onto the floor. Once § 87(2)(b) was on the floor, PO Depasquale placed his foot on the back side of his neck in order to keep § 87(2)(b) on the floor and sitting still.
- § 87(2)(b) stated that PO Baker kicked § 87(2)(b) in the side once. PO Depasquale and PO Baker then dragged § 87(2)(b) into a cell.
- Then, two officers from ESU arrived. § 87(2)(b) was screaming at this time. The ESU officers told § 87(2)(b) to put his hands behind his back to which he responded that he didn't deserve this.

- A sergeant came over to the cell and asked, “How is this going to go down?” § 87(2)(b) replied, “Once you open my cell, it’s on, it’s poppin’.” The officers told § 87(2)(b) to turn around and place his hands behind his back. § 87(2)(b) said, “Fuck that. Now one of ya’ll are gonna bleed now.”
- The ESU officers laid the restraint bag on the ground. § 87(2)(b) did not see an officer with a taser. § 87(2)(b) did not hear any officer speak about a taser. § 87(2)(b) did not hear any officer threaten § 87(2)(b) with a taser.
- ESU officers went inside of the cell and carried § 87(2)(b) out over their shoulders. § 87(2)(b) was handcuffed on his hands and feet. The officers put a mask on § 87(2)(b) placed him in the bag and then carried him out of the cell area.

§ 87(2)(b) **(encl. 8a-8b) (IAB Statement)**

- § 87(2)(b) was interviewed at the Manhattan Central Booking by Sgt. Dauteuil and Det. Howard from IAB on June 8, 2014.
- § 87(2)(b) was a prisoner in one of the holding cells inside of the 14th Precinct.
- § 87(2)(b) was running his mouth at the police officers. § 87(2)(b) argued back and forth with the officers. § 87(2)(b) was talking nonsense. § 87(2)(b) could not recall what § 87(2)(b) said.
- § 87(2)(b) stated that § 87(2)(b) was pushed against a gate and then fell to the floor. § 87(2)(b) was bleeding from the forehead on the floor.
- There were two or three white uniformed police officers. § 87(2)(b) was presented with photos of police officers. § 87(2)(b) did not recognize any of the officers.

§ 87(2)(b) **(encl. 9a-9b) (IAB Statement)**

- § 87(2)(b) was interviewed at the Manhattan Central Booking by Sgt. Dauteuil and Det. Howard from IAB on June 8, 2014.
- § 87(2)(b) was a prisoner in one of the holding cells inside of the 14th Precinct.
- § 87(2)(b) stated that he saw an officer pick up § 87(2)(b) off of the floor and slam him onto the floor. The officer picked up § 87(2)(b) like a bear-hug.
- The officers picked up § 87(2)(b) and threw him into the bars. § 87(2)(b) was bleeding from his head on the floor.
- Officers from ESU arrived. The ESU officers placed § 87(2)(b) in a bag with Velcro. § 87(2)(b) said that he could not breathe.

§ 87(2)(b) **(encl. 10a-10b) (IAB Statement)**

- § 87(2)(b) was interviewed at the Manhattan Central Booking by Sgt. Dauteuil and Det. Howard from IAB on June 8, 2014.
- § 87(2)(b) was a prisoner in one of the holding cells inside of the 14th Precinct.
- § 87(2)(b) stated that he heard a loud boom and then another boom. Then, he saw § 87(2)(b) thrown to the floor in front of his cell.
- § 87(2)(b) saw § 87(2)(b)'s face split right in front of him and started to bleed. § 87(2)(b) was kicked. § 87(2)(b) was dragged by one knee into another cell.
- § 87(2)(b) was presented with photos of police officers. § 87(2)(b) did not recognize any officer from one photo array. § 87(2)(b) stated that a filler photo in the second array was an officer who was present but did not do anything.

NYPD Statements

Subject Officer: PO PHILIP DEPASQUALE (encl. 16a-16e)

- PO Depasquale was interviewed at the CCRB on May 1, 2015.
- PO Depasquale stated that he and PO Baker transported § 87(2)(b) to the § 87(2)(b).
- En route to the stationhouse, § 87(2)(b) was yelling, screaming and cursing. § 87(2)(b) used the word, “Fuck,” and a lot of indiscriminate yelling. § 87(2)(b) said he was going to “get” the officers when he got out of the car. § 87(2)(b) was also kicking the partition while inside of the police car.
- At the stationhouse, § 87(2)(b) made it difficult for PO Baker and PO Depasquale to bring him inside of the stationhouse. § 87(2)(b) was moving his body by pulling his arms away from the officers. § 87(2)(b) was leaning forward and backward trying to prevent himself from walking forward towards the front door of the stationhouse. § 87(2)(b) was kicking his legs and then trying to keep his legs still on the ground. § 87(2)(b) was rear handcuffed at this time. PO Depasquale and PO Baker continued to grab § 87(2)(b) on his arms and pull him towards the stationhouse. § 87(2)(b) would stop and then continue to walk.
- Inside of the stationhouse, there is a short gate which § 87(2)(b) kicked and almost caused it break to off the hinges.
- PO Baker and PO Depasquale both brought § 87(2)(b) towards the back of the stationhouse to the holding cell area. At that point, PO Baker took PO Depasquale’s firearm from him. § 87(2)(b) was still screaming and cursing and struggling with his arms to get them free from the officers. PO Depasquale then brought § 87(2)(b) past the door into the cell area. PO Baker did not follow PO Depasquale into this area because you are not allowed to bring firearms into the cell area and PO Baker was holding onto PO Depasquale’s firearm.
- PO Depasquale did not recall seeing any officers, including a cells attendant, in the holding cell area.
- PO Baker stayed in the lobby of the stationhouse. There are about four stairs in the back room leading up to where the cells are. There is another giant metal door in front of the stairs. PO Depasquale held § 87(2)(b) with one arm while he opened the door with the other. § 87(2)(b) continued to loosen his body and arms from PO Depasquale’s grip. Once the door opened, § 87(2)(b) lunged his body forward towards the stairs.
- PO Depasquale did not push § 87(2)(b) or slam § 87(2)(b)’s head into the bars of a cell. § 87(2)(b)’s body, from his knees to his head, landed face-forward on the stairs.
- § 87(2)(b) would not get off the floor and told PO Depasquale to get off of him. PO Depasquale dragged and pulled § 87(2)(b) up the stairs, across the floor, and into a cell by himself.
- PO Depasquale had cuts and blood on his hands. PO Depasquale believed he could have cut himself from § 87(2)(b) moving around and him holding onto the handcuffs. PO Depasquale did not remember if he saw § 87(2)(b) bleeding or injured.

Subject Officers: DET. CHRISTOPHER WILLIAMS & DET. KEITH CONNELLY (encl. 17a-17e, 18a-18d)

- Det. Williams and Det. Connelly were interviewed at the CCRB on May 12, 2015.
- Det. Williams and Det. Connelly did not recall the any part of the incident and both did not recall § 87(2)(b) complaining that he could not breathe. Det. Williams and Det. Connelly were presented with a photo of § 87(2)(b) and documentation of the incident. Also, the officers were informed with a summary of the incident. However, Det. Williams and Det. Connelly still did not recall the incident.

- Det. Williams and Det. Connelly both denied standing on top of § 87(2)(b).
- Det. Williams and Det. Connelly did not recall telling § 87(2)(b) that if he did not cooperate that he would be tased.

Witness Officer: PO KYLE BAKER (encl. 19a-19d)

- PO Baker was interviewed at the CCRB on May 1, 2015.
- PO Baker was PO Depasquale's partner on the date of incident.
- PO Baker corroborated PO Depasquale's statement by stating that he remained in the lobby and § 87(2)(b) resisted being brought into the stationhouse.
- PO Baker took PO Depasquale's firearm from his holster. No other officers were helping PO Baker and PO Depasquale. Once PO Baker got PO Depasquale's firearm, he held it and waited for him by the front desk. PO Depasquale went inside of the cells area alone with § 87(2)(b).
- PO Baker stated that he did not see any officer push § 87(2)(b) into the bars of a cell.
- PO Baker did not see any injuries on § 87(2)(b).

Potential Issues

§ 87(2)(b)'s attorney, § 87(2)(b), was present during his CCRB interview. He advised § 87(2)(b) against making any statements with regard to the underlying arrest, so only allegations were post-arrest in this case.

Sgt. Edward Herdina was the desk officer who drafted the unusual occurrence report noted below (encl. 23). There was a cells attendant, PO Anthony Passaro, listed on the roll call (encl. 19e). PO Depasquale stated that he did not recall any other officer, including a cells attendant or Sgt. Herdina, being in the holding cell area at the time. Sgt. Herdina and PO Passaro were therefore not interviewed because their testimony would not have impacted any of the recommended dispositions.

§ 87(2)(b) and § 87(2)(b) were interviewed by Internal Affairs Bureau. None of them responded to contact attempts by the CCRB to obtain their sworn statements. As such, they were deemed unavailable to the investigation (encl. 15a-15b).

§ 87(2)(b) and § 87(2)(b) were in the holding cells at the time of this incident. All of them provided statements to IAB or the CCRB and stated that they did not see the incident. Therefore, a verified statement was not conducted by the investigation.

Medical Records

On § 87(2)(b), at approximately § 87(2)(b) § 87(2)(b) was evaluated at § 87(2)(b). As per medical records, § 87(2)(b) was complaining of right forehead laceration. The records state that § 87(2)(b) was in cell and slammed head against bars, causing laceration on right eyebrow. It is unclear who provided his version of the incident. § 87(2)(b) stated that he had been in an altercation with the police. The medical records noted § 87(2)(b) had slurred speech but they could not determine if he had been intoxicated at the time of the incident. The laceration was 3 centimeters long by 1 centimeter wide to the right eye eyebrow, and was closed with six sutures (Medical Records).

NYPD Documents

Arrest Report and Criminal Court Complaint (encl. 20a-21b)

14th Precinct Command Log (encl. 22)

§ 87(2)(b)'s physical or mental condition was described as intoxicated. The transporting officers were noted as PO Depasquale and PO Baker. On June 8, 2014, at approximately 1:30 a.m., § 87(2)(b) was transported to § 87(2)(b) by EMS and ESU. ESU Truck #1 was present at the stationhouse at 1:15 a.m. with Det. Williams.

ESU Report – § 87(2)(b) (encl. 26a-26c)

According to this report filed by Det. Williams, the ESU officers responded to the § 87(2)(b) for an uncooperative emotionally disturbed person (EDP). This person was identified by the investigation as § 87(2)(b). Upon arrival, § 87(2)(b) was in the cell area and acting out with officers of the precinct. § 87(2)(b) was sitting in the cell and was rear cuffed and had a cut to his head. § 87(2)(b) was belligerent with the ESU crew. § 87(2)(b) was placed in a restraint bag for his safety as well as that of the ESU crew and other officers. § 87(2)(b) was threatening crew, officers and EMS. § 87(2)(b) was removed from the cell area and taken to § 87(2)(b) for further evaluation.

Unusual Occurrence Report (encl. 23)

According to the unusual occurrence report filed by Sgt. Herdina, on June 8, 2014, at approximately 12:55 a.m., § 87(2)(b) sustained a laceration to his head requiring stitches in the holding cell area. PO Depasquale and PO Baker transported § 87(2)(b) in regards to an arrest by PO Tisdall. Upon arrival to the stationhouse, the officers did attempt to lodge prisoner into the cell, when he stated, "I was unjustly arrested and I'm not going into that cell." The officers further stated that without warning § 87(2)(b) threw himself to the ground while still rear cuffed and his head struck the open cell causing a laceration. Sgt. Herdina immediately requested an ambulance to the stationhouse to render treatment and directed that § 87(2)(b) be placed into the cell without further incident. § 87(2)(b) refused to be removed from cell by EMS personnel and ESU Truck #1 Det. Williams. § 87(2)(b) was removed via § 87(2)(b) to § 87(2)(b). § 87(2)(b) received six stitches. Det. Pacheco of IAB was notified and Group 9 will report to § 87(2)(b) for further investigation.

Prisoner Pen Holding Roster (encl. 25a-25d)

According to the prisoner holding pen roster, § 87(2)(b) and § 87(2)(b) were in the holding cells area at the same time as § 87(2)(b).

14th Precinct Roll Call (encl. 24a-24f)

According to the 14th Precinct roll call, Sgt. Herdina was assigned to the desk, PO Depasquale and PO Baker were assigned to patrol sectors D and E, and PO Passaro was assigned as the cells attendant.

Arrest Photo & IAB Photos (encl. 4f, 28a-28b)

According to § 87(2)(b)'s arrest photo and the photos taken by IAB at § 87(2)(b), § 87(2)(b) has a band aid covering the injury which is located above his right eye.

IAB Case File

The investigation into this incident by IAB closed the unnecessary force allegations as unsubstantiated (IAB Case File Folder).

Findings and Recommendations

Explanation of Subject Officer Identification

PO Depasquale stated that he was the only officer who brought § 87(2)(b) into the holding cells area. Therefore, **Allegation A** was pled against him.

The investigation determined that only two officers from ESU responded, who were identified as Det. Christopher Williams and Det. Keith Connelly. § 87(2)(b) alleged that one of the ESU officers told him that if he did not comply with his orders that he would be tasered. However, § 87(2)(b) did not know which officer made this statement. Moreover, § 87(2)(b) stated that two officers from ESU stood on top of him. Therefore, **Allegation B** was pled against an officer and **Allegations C and D** were pled against Det. Williams and Det. Connelly, respectively.

Allegation A – Force - PO Philip Depasquale used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) sustained a laceration on his right eyebrow as he was escorted to the holding cells. Moreover, it is undisputed that at this time, § 87(2)(b) was rear handcuffed. However, it is disputed how § 87(2)(b) sustained this injury.

According to § 87(2)(b) when he reached the top of the stairs by the holding cells area, he felt a hand push him forward from the back of his head. As a result of the push, the right side of § 87(2)(b)'s head smashed against the iron bars on the gate to the cell, causing his right eyebrow to split open and begin bleeding. § 87(2)(b) fell to the floor. He landed face-down, hitting his lip and chin on the ground. § 87(2)(b) could not tell how big the cut under his eyebrow was, but he stated that there was a pool of blood on the ground and blood on the gate. Officers dragged § 87(2)(b) into the cell (encl. 4a-4f).

PO Depasquale stated that he was the only officer in the holding cell area with § 87(2)(b) with no cell attendant or desk officer present. PO Baker stated that he remained in the lobby which was corroborated by PO Depasquale.

PO Depasquale stated that he held § 87(2)(b) with one arm while he opened the door to the holding cells area with his other hand. § 87(2)(b) continued to loosen his body and arms from PO Depasquale's grip. Once the door opened, § 87(2)(b) lunged himself forward towards the stairs. PO Depasquale indicated that he did not push § 87(2)(b) or slam § 87(2)(b)'s head into the bars of a cell. § 87(2)(b)'s body, from his knees to his head, landed face-forward on the stairs. § 87(2)(b) was screaming at PO Depasquale to get off of him. § 87(2)(b) said, "Fuck you." § 87(2)(b) would not get off the floor. PO Depasquale was at the top of the stairs above § 87(2)(b) was still moving his body and kicking his legs. PO Depasquale dragged and pulled § 87(2)(b) up the stairs, across the floor, and into a cell (encl. 16a-16e).

According to NYPD Patrol Guide Procedure 203-11, only that amount of force necessary to overcome resistance will be used to effect an arrest or take an emotionally disturbed person into custody (encl. 1a-1b).

§ 87(2)(g) § 87(2)(b) and § 87(2)(b) who did not know § 87(2)(b) before this incident and who were in the holding cells area at the time § 87(2)(b) was being escorted in by PO Depasquale, corroborated § 87(2)(b)'s version of the incident. In § 87(2)(b)'s statements to IAB and the CCRB, he stated that he saw PO Depasquale push § 87(2)(b) into the bars of a cell. In § 87(2)(b)'s statement to IAB, he stated that he saw § 87(2)(b) pushed into the bars of a cell. Even § 87(2)(b) and § 87(2)(b) statements to IAB indicate that excessive police force was used, but differently than alleged by § 87(2)(b) and corroborated by § 87(2)(b) and § 87(2)(b) stated that he saw an officer pick up § 87(2)(b) off of the floor and slam him onto the floor. Then, he stated that officers picked up § 87(2)(b) and threw him into the bars. § 87(2)(b) stated that he saw § 87(2)(b) thrown to the floor in front of his cell.

§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation B – Abuse of Authority – An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that one of the ESU officers in the cell area told him to comply with his orders or he would be tased. He could not state which officer made the statement.

Det. Williams and Det. Connelly did not recall the incident and did not recall telling § 87(2)(b) that he would be tased if he did not comply with their orders (encl. 17a-17e, 18a-18d).

PO Depasquale and PO Baker were not present in the cell area when this occurred.

None of the civilian witnesses, including the EMTs and other prisoners in the holding cells, stated that they heard this statement.

§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Allegation C – Force – Det. Christopher Williams restricted the breathing of § 87(2)(b)

Allegation D – Force – Det. Keith Connelly restricted the breathing of § 87(2)(b)

It is undisputed that § 87(2)(b) was placed in a restraint bag and transported to the hospital.

§ 87(2)(b) stated that he was placed inside of a restraint bag. The officers tightened the bag which restricted his breathing. § 87(2)(b) told the officers he could not breathe. One of them then stood on his buttocks and another on one of his shoulder blades. The officers put straps around him, tightened them more and placed a hood over his head. In § 87(2)(b)'s statement, he could not state which part of the process specifically restricted his breathing.

Det. Williams and Det. Connelly did not recall the entire incident and did not recall § 87(2)(b) complaining that he could not breathe. Moreover, both officers denied standing on top of § 87(2)(b) (encl. 17a-17e, 18a-18d).

Both EMT § 87(2)(b) and EMT § 87(2)(b) stated that they did not hear § 87(2)(b) complain about not being able to breathe, but stated they were not present in the cells area while § 87(2)(b) was placed in the restraint bag. Both stated that they heard § 87(2)(b) speaking in full sentences and did not appear to have any issues with his breathing (encl. 5a-5f, 6a-6f).

§ 87(2)(b) stated that he heard § 87(2)(b) complain that he could not breathe. However, none of the other prisoners in the holding cells who provided statements to the CCRB or IAB mentioned § 87(2)(b) complaining that he could not breathe.

According to NYPD Patrol Guide Procedure 202-11, alternate restraining devices, including Velcro straps and a mesh blanket, shall be used to restrain a subject whose actions or behavior may cause injury to himself or others. After an individual has been controlled, the person should be positioned so as to promote free breathing.

It is undisputed that § 87(2)(b) was placed in a restraint bag and transported to the hospital. However, there is only one corroborating witness to § 87(2)(b)'s complaint that he could not breathe. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Other – PO Philip Depasquale intentionally provided a false official statement to the CCRB.

During PO Depasquale's CCRB statement, he denied pushing § 87(2)(b) towards a cell or causing the laceration above his right eye. Moreover, he stated that § 87(2)(b) threw himself against the stairs leading up to the cells by lunging out of his grasp as he tried to open the gate (encl. 16a-16e).

Intentionally making a false official statement is prohibited and will be subject to disciplinary action. NYPD Patrol Guide, Section 203-08 (encl. 1k). The statement must be proven to have been made, material and intentionally false. Department of Correction v. Centeno, OATH Index No. 2031/04, p.4 (2005) (encl. 2a-2g).

§ 87(2)(g), § 87(2)(b) and § 87(2)(b) who did not know § 87(2)(b) before this incident and who were in the holding cells area at the time § 87(2)(b) was being escorted in by PO Depasquale, corroborated § 87(2)(b)'s version of the incident.

§ 87(2)(b) provided a statement to IAB and stated that he saw an officer pick up § 87(2)(b) off of the floor and slam him onto the floor. The officer picked up § 87(2)(b) like a bear-hug. § 87(2)(b) was bleeding from his head on the floor. The officers picked up § 87(2)(b) and threw him into the bars.

In a statement to IAB, § 87(2)(b) stated that he heard a loud boom and then another boom. Then, he saw § 87(2)(b) thrown to the floor in front of his cell. § 87(2)(b) saw § 87(2)(b)'s face split right in front of him. § 87(2)(b) was kicked. § 87(2)(b) was dragged by one knee into another cell. § 87(2)(b) was bleeding from the face.

§ 87(2)(g)
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§ 87(2)(g)

Pod: 15

Investigator:	_____	<u>Ramsey AlQaisi</u>	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date